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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,940	10/10/2003	John M. Bruno	JBC03	3892

7590 12/15/2004

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EXAMINER
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NGUYEN, TAM M

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/683,940

Applicant(s)

BRUNO, JOHN M.

Examiner

Tam Nguyen

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Nizamuddin (6,786,850).

1. As to claim 1, Nizamuddin discloses an exercise device for simulating ice-skating wherein the apparatus comprises a horizontal platform (10), two defined curvature guide paths (24a,24b), two pedal assemblies (12a,12b) moveably coupled to the guide paths and a variable resistance mechanism (80) (see Figs. 2, 3, 5 & 6).
2. As to claim 3, Nizamuddin discloses an exercise device as described above (see discussion of claim 1). Nizamuddin further discloses a handlebar assembly (17a, 17b) (see Fig. 3).
3. As to claim 4, Nizamuddin discloses an exercise device as described above (see discussion of claim 1). Nizamuddin further discloses that the guide paths are substantially symmetrical, horizontal and mirror images of each other as substantially claimed (see Figs. 1 & 2).
4. As to claims 7 and 8, Nizamuddin discloses an exercise device as described above (see discussion of claim 1). Nizamuddin further discloses a resistance

mechanism as substantially claimed that is adjustable (see Col. 6, lines 5+ and Figs. 5 & 6).

5. As to claim 9, Nizamuddin discloses an exercise device as substantially claimed (see discussion of claims 1 and 4).

Claims 1, 2, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (4,915,373).

6. As to claims 1, 2, 5 and 6, Walker discloses an exercise device comprising a horizontal platform (16, 20, 22, 28), a chest support (46), two defined curvature guide paths (78), two pedal assemblies (14) moveably coupled to the guide paths, and a variable resistance mechanism (114) wherein each pedal assembly comprises a footpad (108), a pivot rod (106) and a block guide (104) in which the pivot rod allows inward rotation about a 90 degree axis (45 degrees relative to the floor) at enlarged portion (80) (see Figs. 1 & 3).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cox '650 discloses an ice-skating simulating device that allows for curved guide paths (see Fig. 2).

Landers et al. '162 disclose an exercise device having curved guide paths (see Figs. 3A and 15A).


McCormack '372 discloses an ice-skating exercise device having guided paths.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 703-305-0784. The examiner can normally be reached on M-F, 9-5.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 10, 2004

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Danton D. DeMille  
Primary Examiner